

Appln. No. 10/671,400

Attorney Docket No. 11721-035

III. Remarks

Claims 1 and 2-18 are pending in the application. Claim 2 has been cancelled. Claims 1, 3, 6, 8, 11, 12 and 14 have been amended. No new claims have been added.

Claims Objections

Claims 1 and 15-18 were objected to because of informalities. Specifically Claim 1, line 5, "predicative" has been changed to "predictive."

In claims 15-17, all on line 1, "said step of" has been inserted before "adjusting" to overcome the antecedent basis problem.

In claims 16-17, line 2, "a vehicle" has been changed to "the first vehicle" and in claim 18, line 2, "the vehicle" has been changed to "the first vehicle."

Further Claim Clarifications

Prior to discussing the references, it is believed that a brief discussion on the current form of the independent claims of this application is warranted. The original independent claims of this application have been amended to clarify, more particularly to point out and distinctly claim that which Applicants regard as the subject matter of the present invention. Specifically, independent claims 1 and 14 now recite the height adjustment apparatus includes a second valve in communication with a first valve for actuating the first valve.

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Rejections Under 35 USC § 102

Claims 1, 9-10, 14 and 18 were rejected under 35 USC §102(b) as being anticipated by PCT publication WO 01/26922 issued to Yngve Häland (Häland).

Claims 1 and 14 of the present invention have been amended to include all the limitations of claim 2, namely, a second valve in communication with the first valve for actuating the first valve. The addition of the limitations of claim 2 renders the Examiner's rejection moot.

Rejections Under 35 USC § 103

Claims 2-8, 11-13 and 15-17 were rejected under 35 USC §103(a) as being unpatentable over Häland.

The Examiner stated that the limitations of claim 2 are not disclosed in Häland. However, the Examiner concluded that it would have been readily apparent for one skilled in the art to incorporate an additional valve taught in Häland to allow for a second level of control in releasing the fluid from the bladder.

The Applicant respectfully disagrees with the Examiner. In Häland, there is a single valve for allowing fluid into and out of the bladder. This single valve system is sufficient for filling the bladder, but is insufficient for emptying the bladder. When a vehicle collision is imminent, the bladder must quickly deflate in order place the nose of the vehicle in the proper crash position. Because of the design of the single valve, the contents of the bladder will not be able to escape quickly enough to place the nose of the vehicle in crash position.

The present invention uses a two valve system. The first valve allows for the rapid release of the contents of the bladder while the second valve actuates the first

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valve and allows for the refilling of the bladder. By having a two valve system, the nose of the vehicle can dip to the crash position quick enough to be effective, while preserving the ability to inflate the bladder at a later time.

Any rejection based on ascertations that a fact is well known or is common knowledge in the art without documentary evidence to support the Examiner's conclusion should be judiciously applied. MPEP 2144.04(e). Furthermore, 37 C.F.R. §104(c)(2) states:

When a rejection in an application is based on facts within the personal knowledge of an employee of the office, the data shall be as specific as possible, and the reference must be supported, when called for by the Applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

The Applicants respectfully request that the Examiner produce either documentary evidence of the obviousness of the above-mentioned element or an affidavit.

In that Häland fails to disclose or suggest the elements claimed in the present application, it must be concluded that Häland cannot render the claims of the present application as obvious. The rejection under 35 U.S.C. §103(a) is therefore improper and should be withdrawn.

In that claim 2 has been incorporated into the independent claims 1 and 14, claims 3-8, 11-13 and 15-17, which are dependent on either claim 1 or 14, are patentable for at least the same reasons as given above.

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SUMMARY

Pending Claims 1 and 3-18 as amended are patentable. Applicants respectfully request the Examiner grant early allowance of these claims. The Examiner is invited to contact the undersigned attorneys for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,

July 26, 2005

Date



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